IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

CRP.No. 361 of 2003(D)

AGAINST THE ORDER DATED 16/10/2002 IN EP. 143 /2001 IN OS.704/2000 of MUNSIFF COURT, THALIPARAMBA

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REVN. PETITIONER: JUDGMENT DEBTOR NO.2:

IBRAHIM MUSALIYARAKATH,
S/O. MAMU, 27 YEARS, KALLIAD AMSOM,
CHETTUVADI DESOM, TALIPARAMBA TALUK.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS: DECREE HOLDER & JUDGMENT DEBTORS 1 & 3:
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1. RICHARD JOSEPH, S/O. JOSEPH,
FOREMAN, MAZHUPEL CHITTY FUNDS,
PAYYAVOOR AMSOM DESOM, TALIPARAMBA TALUK,
KANNUR DISTRICT.

2. K.G. RAJU KANHIRATHINKAL,
S/O. K.S. GEORGE, 29 YEARS, KALLIAD AMSOM,
THIROOR DESOM, TALIPARAMBA TALUK,
KANNUR DISTRICT.

3. K.P. SHAMSUDIN, S/O. ABDULLA,
27 YEARS, KALLIAD AMSOM, BLATHOOR DESOM,
TALIPARAMBA TALUK, KANNUR DISTRICT.

BY ADV. SRI.B.PREMNATH (E)

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP NO.924/2003 IN CRP NO.361/2003

DISMISSED

11.9.2007 SD/- PIUS C.KURIAKOSE, JUDGE.

/TRUE COPY/

P.A. TO JUDGE.

PIUS C. KURIAKOSE, J.

C.R.P. NO.361 OF 2003

Dated this the 11th day of September , 2007

O R D E R

The first respondent, who is the decree holder is already served. The issue involved in the Civil Revision Petition can be decided in the presence of the petitioner and the first respondent who alone be concerned. The Civil Revision Petition is not defective.

2. Impugned in this Civil Revision Petition is the order of the learned Munsiff finding that the petitioner, who was the 2nd judgment debtor, is having sufficient means to pay off the decree debt and yet neglecting to pay the same and on that basis issuing warrant for his arrest. Ext.X1 produced by the Village Officer shows that contrary to the contention of the petitioner, he owes 75 cents of land in his own name. The petitioner's explanation was that he was sold off the land. The learned Munisff noticed that no evidence was produced by the petitioner to show that he has sold off the land.

3. I do not find any jurisdictional infirmity about the order. But the learned counsel for the petitioner submits that the petitioner was not given enough time to produce the document. While admitting the Civil Revision Petition and granting stay, this court imposed a condition that the petitioner pays Rs.5,000/- towards the decree debt. The

learned counsel for the petitioner submits that the above payment is already made. Considering that, I am inclined to grant one more opportunity for producing the documents but imposing further conditions. Accordingly, the impugned order is set aside and the matter will go back to the court below on condition that the petitioner pays a further amount of Rs.15,000/- (Rupees Fifteen Thousand) towards the decree debt within two months from today. Once the learned Munsiff notices that payment of Rs.15,000/- is made by the petitioner as directed above, he will post the E.P for further enquiry granting an opportunity to the petitioner for producing documentary evidence to show that he has sold away the 75 cents of land which stood in his name as per Ext.X1. If document is produced within the time granted by the learned Munsiff, the learned Munsiff will pass fresh orders after hearing the petitioner and considering when the sale was made and the learned counsel for the decree holder. It is made clear that if payment is not made, the impugned order will stand confirmed.

The Civil Revision Petition is disposed of as above.

PIUS C. KURIAKOSE,
JUDGE.

Dpk

PIUS C.KURIAKOSE, J.

CRP 361 OF 2003

O R D E R

11TH SEPTEMBER 2007